

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 PAUL DANIEL LOISEL,

8 Defendant.
9

Case No. 2:16-cr-00058-APG-VCF

ORDER

(ECF No. 46)

10 The Ninth Circuit issued an order remanding this case for the limited purpose of granting
11 or denying a certificate of appealability. ECF No. 46. Loisel's notice of appeal at ECF No. 44 by
12 its terms appeals only the amended judgment. The amended judgment (ECF No. 43) was entered
13 as a result of my order on Loisel's § 2255 motion. ECF Nos. 41, 43. In that order, I vacated
14 Loisel's original judgment due to his unrebutted representation that he directed his counsel to file
15 an appeal and his counsel did not do so. ECF No. 41 at 7. Consequently, Loisel's notice of appeal
16 is not directed at my ruling on his § 2255 motion. Instead, he is appealing his conviction and
17 sentence under the amended judgment. I therefore need not decide whether to grant or deny a
18 certificate of appealability.

19 In the event that I am misinterpreting the notice of appeal, or if counsel files an amended
20 notice of appeal to include my order on Loisel's § 2255 motion, I would deny a certificate of
21 appealability. Loisel has not demonstrated "that the issues are debatable among jurists of reason;
22 that a court could resolve the issues [in a different manner]; or that the questions are adequate to
23 deserve encouragement to proceed further." *Allen v. Ornoski*, 435 F.3d 946, 951 (9th Cir. 2006)
24 (quotations omitted).

25 The clerk of court is directed to send a copy of this order to the Ninth Circuit.

26 DATED this 16th day of January, 2018.

27 
28 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE